

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

JENNY POBLANO and NATHAN
BARTLETT, individually and on behalf
of all others similarly situated,

Plaintiffs,

v.

Case No. 8:19-cv-0265-KKM-AAS

RUSSELL CELLULAR, INC.,
a foreign corporation,

Defendants.

ORDER

The twenty-one Opt In Plaintiffs move for an award of attorney's fees and taxation of costs related to their accepted offers of judgment in the amount of \$73,500. (Doc. 123.) Defendant Russell Cellular, Inc., does not oppose the motion. (*Id.*) The Magistrate Judge issued a report recommending that the Court grant-in-part and deny-in-part Opt In Plaintiffs' motion. (Doc. 127.) The Magistrate Judge recommended that Opt In Plaintiffs should be awarded attorney's fees of \$73,500 and costs of \$465, for a total award of \$73,965. (Doc. 127.) The parties timely filed a joint limited objection to the Magistrate Judge's recommendation, stating that the report's recommended total award of \$73,965 "exceeds the amount Opt In Plaintiffs sought (and was agreed upon by the parties)." (Doc.

128.)

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify a magistrate judge's Report and Recommendation. 28 U.S.C. § 636(b)(1). If a party files a timely and specific objection to a finding of fact by the magistrate judge, the district court must conduct a de novo review of that factual issue. *Stokes v. Singletary*, 952 F.2d 1567, 1576 (11th Cir. 1992). The district court reviews legal conclusions de novo, even in the absence of an objection. See *Cooper-Houston v. S. Ry. Co.*, 37 F.3d 603, 604 (11th Cir. 1994); *Ashworth v. Glades Cnty. Bd. of Cnty. Comm'rs*, 379 F. Supp. 3d 1244, 1246 (M.D. Fla. 2019).

For the reasons explained below, the Court sustains the parties' joint limited objection, adopts the remainder of the report and recommendation, and grants \$73,035 in attorney's fees and \$465 in costs, for a total award of \$73,500. The Magistrate Judge recommended that Opt In Plaintiffs' motion should be granted in part and denied in part. (Doc. 127.) Specifically, the Magistrate Judge recommend that Opt In Plaintiffs should be awarded attorney's fees of \$73,500 and costs of \$465, for a total award of \$73,965. (*Id.*) The parties jointly filed a limited objection to the Magistrate Judge's report and recommendation, stating that the recommended award "exceeds the amount Opt In Plaintiffs sought (and was agreed upon by the parties)" because Opt in Plaintiffs are seeking a total award of only \$73,500, including *both* fees and costs, not a fee award of \$73,500

plus costs for a total of \$73,965, as the Magistrate Judge recommended. (Doc. 128.)

The parties do not object to the substance of the Magistrate Judge's well-reasoned fee analysis. (Doc. 127 at 4–12.) Instead, the parties' object to the \$73,500 award figure as "exceed[ing] the amount Opt In Plaintiffs [are seeking] (and was agreed to by the parties)." (Doc. 128.) The parties clarify in their joint objection that Opt In Plaintiffs are only seeking a fee award of \$73,035. (*Id.*). Because \$73,500 is a reasonable award under the facts here given the reasonable number of hours spent by Opt In Plaintiffs' attorneys and staff multiplied by a reasonable hourly rate as the Magistrate Judge concluded, *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983), it follows that the lesser award the parties are seeking is also reasonable. The Court will therefore award Opt In Plaintiffs the parties' agreed upon fee award of \$73,035.

The parties do not object to the Magistrate Judge's cost analysis or the conclusion that Opt In Plaintiffs be allowed to recover \$465 for costs associated with this litigation under 28 U.S.C. § 1920, which includes both the filing fee for this action (\$400) and service of process fees (\$65). (Doc. 127 at 12–15.)

Accordingly, the following is **ORDERED**:

1. The parties' Joint Limited Objection (Doc. 128) to the Magistrate Judge's Report and Recommendation (Doc. 127) is **SUSTAINED**. The Magistrate Judge's Report and Recommendation (Doc. 127) is otherwise **ADOPTED**

in full.

2. Plaintiffs' Unopposed Motion on Entitlement to Attorney's Fees and

Taxation of Costs (Doc. 123) is **GRANTED**.

3. The Clerk is directed to enter judgment in favor of the Opt In Plaintiffs in

the amount of \$73,035 in attorney's fees and \$465 in costs, for a total award

of \$73,500.

ORDERED in Tampa, Florida, on January 31, 2022.



Kathryn Kimball Mizelle
United States District Judge